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5 UNITED STATES DISTRICT COURT  
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
7 OAKLAND DIVISION  
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9 STEVEN M. FREDERICKS,

10 Plaintiff,

11 vs.

12 EQUILON ENTERPRISES, LLC d.b.a.  
13 SHELL OIL PRODUCTS U.S., et al.,

14 Defendants.  
15

Case No: C 10-05758 SBA

**ORDER DENYING STIPULATION  
TO FILE THIRD AMENDED  
COMPLAINT**

Dkt. 52

16 Plaintiff Steven M. Fredericks commenced the instant personal injury action in  
17 Contra Costa County Superior Court on September 10, 2010 against Certified Safety  
18 Specialists LLC, Petrochem Field Services LLC, and Equilon Enterprises LLC dba Shell  
19 Oil Products U.S. On December 10, 2010, Defendants removed the action to this Court on  
20 the basis of diversity jurisdiction, 28 U.S.C. § 1332.

21 Over a year ago on April 21, 2011, the Court held a Case Management Conference,  
22 at which time it entered a pretrial schedule pursuant to Federal Rule of Civil Procedure 16.  
23 Dkt. 24. Among other dates, the Court set June 20, 2011 as “[t]he deadline for the joinder  
24 of other parties and to amend the pleadings.” Am. Order for Pretrial Preparation at 1, Dkt.  
25 26.

26 On March 27, 2012, the parties submitted a stipulated request to continue the  
27 deadlines for fact and expert discovery cut-off, the pretrial conference and a trial date. The  
28 Court issued an order on March 30, 2012, denying the request on the grounds that the

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1 parties had failed to demonstrate “good cause” to modify the Court’s pretrial scheduling  
2 order. Dkt. 50.

3 The parties are now before the Court on stipulated request to file a Third Amended  
4 Complaint to add WorleyParsons Group Inc. (“WorleyParsons”) as a party-defendant. Dkt.  
5 49. Rule 16 provides that deadlines established in a case management order may “be  
6 modified only for good cause[.]” Fed. R. Civ. P. 16(b)(4). “Good cause” exists when a  
7 deadline “cannot reasonably be met despite the diligence of the party seeking the  
8 extension.” Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992)  
9 (citation omitted). Thus, “Rule 16(b)’s ‘good cause’ standard primarily considers the  
10 diligence of the party seeking the amendment.” Id.; see also Coleman v. Quaker Oats Co.,  
11 232 F.3d 1271, 1294 (9th Cir. 2000). “If the party seeking the modification ‘was not  
12 diligent, the inquiry should end’ and the motion to modify should not be granted.”  
13 Zivkovic v. S. Cal. Edison Co., 302 F.3d 1080, 1087 (9th Cir. 2002) (quoting Johnson, 975  
14 F.2d at 609).


15 Plaintiff contends that WorleyParsons was a contractor at the Shell Oil refinery and  
16 was “responsible for safety in the area where Plaintiff’s injuries occurred.” Stipulation at 2.  
17 Plaintiff claims that he only recently learned of WorleyParson’s alleged responsibility for  
18 the incident, based on discovery responses from one of the Defendants. Id. The deadline to  
19 join parties and/or amend the pleadings lapsed almost a year ago on June 20, 2011. Yet,  
20 neither Plaintiff nor any of the other Defendants joining in the instant stipulation has made  
21 any showing why WorleyParsons’ alleged involvement could not have been ascertained  
22 with the deadline to amend the pleadings. Moreover, the joinder of a new party-defendant  
23 at this late stage of the proceedings—and on the eve of the close of fact discovery—will  
24 necessitate the continuance of all dates previously set in the Court’s pretrial scheduling  
25 order and inevitably delay the resolution of this action.

26 In sum, the Court finds that the parties, and Plaintiff in particular, have not been  
27 diligent and that permitting the filing of a Third Amended Complaint to join a new party  
28 will result in undue delay. Accordingly,

1 IT IS HEREBY ORDERED THAT the parties' stipulation to file a Third Amended  
2 Complaint is DENIED. schedule is DENIED. This Order terminates Docket 52.

3 IT IS SO ORDERED.

4 Dated: April 30, 2012

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge